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CHIEF CLERK'S OFFICE

LEAR OPERATIONS CORPORATION

vs.

THE PEOPLES GAS LIGHT AND COKE
COMPANY

05-0682

Complaint as to billing/charges in
Chicago, Illinois

COMPLAINANT'S REPLY BRIEF

LEAR OPERATIONS CORPORATION, by Howard & Howard Attorneys, P.C., respectfully submits its Reply Brief in this matter.

In its Initial Brief, Complainant, Lear Operations Corporation ("Lear"), demonstrated a vast discrepancy in usage for the time period at issue in this matter. Respondent, Peoples Gas Light and Coke Company, does not disagree in its Initial Brief that Lear's metered usage for the period in question was unexplainably high compared to subsequent time periods when, if anything, more gas should have been used rather than vastly less. Respondent's witness Mr. Schmoldt agreed the bills during the period in question were "out of line." (Schmoldt, Tr. 157).

Lear was not in a position financially to hire electricity or metering experts to analyze the gas utility facilities of Respondent in order to counter Respondent's evidence as to its metering accuracy. But Mr. Williams, the Plant Manager, provided evidence, unrefuted by Respondent, that the gas-consuming equipment at the Lear facility was in good working order, and demonstrated that the operations at the facility made it infeasible that the amount of gas reflected on its bills from Respondent during the period in question could have been used.

The Illinois Commerce Commission ("Commission") has the power to deal freely with each situation that comes before it. (*Peoples Gas Light and Coke Company v. Illinois Commerce*


Commission, 175 Ill. App. 3d 39, 529 N.E. 2d 671, 679 (1988).) This case presents compelling evidence for the Commission to find that Lear did not use the quantities of gas for which Respondent billed Lear, based on the facts and circumstances of Lear's facility, equipment and operation, all as thoroughly set forth in the record. Pursuant to its authority under Section 9-252 of the Public Utilities Act (220 ILCS 5/9-252), the Commission should find that Lear could not have reasonably used the quantities of gas for which it was billed.

WHEREFORE, Complainant prays that the Commission order Respondent, Peoples Gas Light and Coke Company, to refund to Complainant \$29,137.24, plus interest pursuant to Section 280.75 of the Commission's Rules of Practice. Alternatively, Complainant prays that the Commission order Respondent to refund \$24,468.45 plus interest.

Dated: December 29, 2006

Respectfully submitted,

LEAR OPERATIONS CORPORATION

By: 
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CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2006, I served the foregoing **COMPLAINANT'S**
REPLY BRIEF, by causing a copy to be placed in the U.S. Mail, first class postage affixed,
addressed to each of the parties indicated below:

Mark L. Goldstein, Esq.
Mark L. Goldstein, P.C.
108 Wilmot Road, Suite 330
Deerfield, Illinois 60015

Ms. Eve Moran, Administrative Law Judge
Illinois Commerce Commission
160 North LaSalle Street
Chicago, IL 60601



William M. Shay